



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

Edmondson
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126875

OFFICE OF GENERAL COUNSEL

B-217475

April 12, 1985

Grosse Pointe Farms, Michigan 48236

Dear Mr. [redacted] :

As mentioned in the telephone conversation between you and Richard Seldin of my staff, the Federal Mediation Board has asked us various questions pertaining to salaries and expenses owing to you subsequent to November 30, 1976 for your work as an arbitrator under the Railway Labor Act, 45 U.S.C. §§ 151, 157. The Board informs us that it estimates that its total liability to you is in excess of \$250,000 and has obligated funds for your compensation in the Board's multi-year "M" account covering fiscal years 1977 through 1982. We understand that to date you have not submitted to the Board the vouchers which would show exactly how much you are owed. The Board states that until those vouchers are presented it cannot make any payments to you.

On August 23, 1983, the Internal Revenue Service served a Notice of Tax Levy on the Board for all property and rights to property owed by the Board to you. Section 6331 of the Internal Revenue Code authorizes the Service to levy upon property possessed and obligations existing at the time of the levy. 26 U.S.C. § 6331. Treasury regulations promulgated under section 6331 state that an obligation exists when the liability of the obligor is fixed and determinable. Treas. Reg. § 301.6331-1.

Based on the above, in reliance on 62 Comp. Gen. 275 (1983) the Board suggests that the 6-year period of limitation set forth in section 3702 of title 31 of the United States Code bars payment of salaries and expenses earned by you for your arbitration work more than 6 years ago. In this regard, assuming its statute of limitations position is correct, the Board asks whether it can deobligate that portion of the funds in its "M" account representing the estimated salaries and expenses earned by you more than 6 years ago and return the funds to the miscellaneous receipts account of the Treasury, or

pay over those funds to the IRS in partial satisfaction of the tax levy.^{1/} As regards the tax levy, a question also arises about whether the estimated salaries and expenses owing to you currently are fixed and determinable and thus are rights to property to which the Service's levy can attach.

As the Board's questions involve monies in which you have an interest, we are asking for your views on the issues raised above. Of course, you may also present any other information you deem relevant. We enclose copies of the Board's and the Service's letters to us.

Consistent with our practices, we ask that you respond within 30 days after you receive this letter. If you should have any questions, please call Mr. Seldin at 202-275-8264.

Sincerely,



Robert H. Hunter
Assistant General Counsel

Enclosures

^{1/} The IRS acknowledges that the levy would not attach to salaries and expenses that arguably already were barred from payment before the Notice of Levy was served on the Board, that is, those salaries and expenses that accrued between November 30, 1976 and August 22, 1977.